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Enclosed herein are the comments of JEM Broadcasting Company, Incorporated, the licensee of KESK(AM) Bentonville, Arkansas. JEM is the original applicant and licensee of daytime only KESE and has operated the station since commencing operation under program test authority on February 5, 1979. The enclosed comments are based on the real world broadcast experience and opinions of Elvis Moody, President of JEM and General Manager of KESE.

In these comments, JEM will address the following:

- 1.) Creation of a new low power FM services as proposed in recent rulemaking proposals, and their potential detriment to current broadcasting standards.
- 2.) Consideration of the current daytime limits on AM daytime only broadcasters.
- 3.) Other solutions that might provide alternative voices in broadcasting without major disruption of current services

CREATION OF NEW LOW POWER FM BROADCAST SERVICES

It has been said that those who fail to learn from history are doomed to repeat it. This could not be more true than in the current proposal to create new virtually unregulatable low power broadcast services. In my broadcast career alone, the Commission went through a period of promoting diversity to the extent that daytime only AM broadcasters such as myself were denied FM broadcast facilities to non-broadcasters simply to create new competing voices. Later the Commission recognizing the hardships placed on broadcasters who had been serving their communities attempted to reverse this and created a DayTimer preference which is currently on hold as part of the Congressional mandated revision of the application process.

The history of Docket 80-90 in which the Commission created thousands of new

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applications, that resulted in thousands of new stations and ultimately the financial chaos it created in the marketplace ultimately resulted in the relaxation of ownership restrictions and the Congressional revisions in the Telecommunications act of 1996. That action has resulted in national corporations purchasing numbers of stations nationally and in individual markets that would not only have been unheard of, but illegal in the past. That action more than anything else has resulted in a loss of community voices and a decrease in individual ownership of all minorities. The problem is even if the Commission doesn't like it, the restrictions lifted in the Telecommunications act of 1996 are done and once out of the bottle the Genie can't be put back in. Even though the current Commissioners may wish, it is simply an act of Congress and the FCC can only enforce the law of the land, not attempt to rewrite it through the rulemaking process.

The rulemaking proposals to create new low power FM services argue that small communities and minorities are denied voices in today's broadcasting environment. Some argue that micro stations are a solution, but the application nightmare of Docket 80-90 overwhelmed the Commission processing staff. Try to imagine what thousands of applications for low power FM stations, the majority prepared without engineering consultants or legal counsel versed in broadcast engineering rules and law would do to the current staff. If implemented enforcement of technical standards, decency rules, and bandwidth protection of other full power broadcasters would be impossible.

CURRENT LIMITATIONS PLACED ON DAYTIME BROADCASTERS

If the Commission feels that communities have lost their voices, or minority groups are under represented they need only to look at the plight of daytime only AM broadcasters. Many

are serving smaller groups that large full power FM's do not, most foreign language stations and minority programmed commercial stations are daytime only AM's. The first order of increasing coverage to under represented groups would be to create FM simulcast booster stations for AM daytime broadcasters. This would be very simply to allow each daytime AM broadcaster to apply for an FM frequency at their city of license only with only a minor change to current allocations rules. If each daytime AM broadcaster were allowed to file for an FM frequency at their city of license, it should be in the following steps:

- 1) Each daytime AM broadcaster would be allowed to file for one and only one FM frequency at their city of license. This frequency would be used to simulcast the AM's current signal and no separation of programming should be allowed.
- 2) Instead of the current allocation and application process that would involve fully spaced new stations the rules should be amended to allow the daytime AM broadcaster to directly file for an FM frequency using only the antenna height and effective radiated power that fits under the rules of section 73.215. In most cases each daytime AM broadcaster would be able to find a frequency that would allow coverage of it's city of license, even where there are no fully spaced new FM channels available.
- 3) Since the new lower power FM simulcasts of daytime AM's would be operated by existing broadcasters rules compliance problems and interference problems would be virtually eliminated.
- 4) Use of available channels that are not fully spaced for new allocations would be the most efficient use of the spectrum and would immediately provide additional service to their communities and in a small way remove the hindrance of service that daytime only AM broadcasters are currently under.

OTHER SOLUTIONS TO PROVIDE ALTERNATIVE VOICES

The argument of many proponents of low power FM or micro stations is to allow freedom of expression and open the airways to new views. I would propose that instead of creating an enforcement nightmare of interference on the commercial band the commission consider reopening the Class D₃ power level on selected frequencies in the non-commercial band, for use as community radio stations.

Another option to allow special events, or for that matter almost anyone who wants to broadcast is to open some of the Citizens Band frequencies to allow long form broadcasts. There are certainly enough C.B. radios in the market to allow anyone who wants to listen to community radio the opportunity. The low cost and availability of Citizens Band transceivers makes entry in to broadcasting low cost, and would provide protection through the use of transmitters that meet emission standards already and have a predicted coverage area.

A rule change to allow long form programming on selected C. B. Channels would give each community the option of multiple new voices without destroying the commercial fm band in an impossible to regulate creation of hundreds if not thousands of new micro stations.

These comments are filed by Elvis Moody, President and General Manager of JEM Broadcasting Company, Incorporated, licensee of KESE (AM) at Bentonville, Arkansas. Should there be any questions in connection with the enclosed or reply comments, please address those comments to:

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